

Subtitle 20 REVITALIZATION PROGRAMS

05.20.03 Seed Community Development Anchor Institution Program

Authority: Housing and Community Development Article, §4-509, Annotated Code of Maryland

Notice of Proposed Action [17-129-P]

The Secretary of Housing and Community Development proposes to adopt new Regulations .01—.10 under a new chapter, COMAR 05.20.03 Seed Community Development Anchor Institution Program, under a new subtitle, Subtitle 20 Revitalization Programs.

Statement of Purpose

The purpose of this action is to describe policies and procedures for program administration under the Seed Community Development Anchor Institution Program.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The Seed Community Development Anchor Institution Program (SEED) will provide financial assistance to anchor institutions to support local community development projects. PAYGO general fund expenditures increase by \$5 million annually from fiscal year 2018 through fiscal year 2022 due to mandated appropriations for SEED; however, budget bills and Acts of the Maryland General Assembly could change the amount of annual appropriations. Due to increased program activity, SEED will require one additional staff person at DHCD to administer. Community development organizations, the communities that they serve, local governments, and small businesses may benefit from the investment of SEED funds in local projects, resulting in increased local economic activity and revenue.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	(E+)	\$63,200
B. On other State agencies:	NONE	
C. On local governments:	(R+)	Indeterminable
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:	(+)	Indeterminable
F. Direct and indirect effects on public:	(+)	Indeterminable

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. Pay-as-you-go (PAYGO) general fund expenditures increase by \$5 million annually from fiscal year 2018 through fiscal year 2022

to capitalize the fund pursuant to mandated appropriation. General fund administrative expenditures for DHCD are projected to increase by \$63,200 in fiscal year 2018 to handle the increase in funding.

C. Local governments will benefit from increased public and private investment in their jurisdictions as well as a reduction in the public costs associated with disinvestment in distressed communities.

E. Entities that qualify as Anchor Institutions (e.g., hospitals and institutions of higher education) are eligible recipients of program funding. These entities should benefit because they will have access to funding and will not need to raise all their funds through private donations. The amount of economic benefit is indeterminable but at a minimum should be equivalent to the amount of program funding made available. In fiscal year 2018, the mandated expenditure will be \$5,000,000.

F. The general public will receive direct and indirect benefit from improved physical and social conditions enabled by the projects funded under the program.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows.

Small businesses will benefit from financial assistance, increased local investment and economic activity resulting from grants and loans made under the program. However, the magnitude of this benefit cannot be determined.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to John Papagni, Program Officer, Division of Neighborhood Revitalization, Department of Housing and Community Development, 2 North Charles Street, Suite 450, Baltimore, MD 21201, or call 410-209-5807, or email to john.papagni@maryland.gov, or fax to 410-685-8270. Comments will be accepted through June 12, 2017. A public hearing has not been scheduled.

.01 Purpose.

The purpose of this chapter is to prescribe the policies and procedures for providing financial assistance under and for administering the Seed Community Development Anchor Institution Program.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Act" means Housing and Community Development Article, §4-509, Annotated Code of Maryland.

(2) "Anchor institution" means:

- (a) An institution of higher education in the State; or
- (b) A hospital in the State that:

(i) Has a group of at least five physicians who are organized as a medical staff for the institution;

(ii) Maintains facilities to provide, under the supervision of the medical staff, diagnostic and treatment services for two or more unrelated individuals; and

(iii) Admits or retains the individuals for overnight care.

(3) "Application" means an application to the Department as described in Regulation .05 of this chapter.

(4) "Blighted area" means an area in which a majority of buildings have declined in productivity by reason of obsolescence, depreciation, or other causes to an extent that they no longer justify fundamental repairs and adequate maintenance.

(5) "Department" means the Department of Housing and Community Development, a principal department of the State.

(6) "Financial assistance" means a grant or a loan.

(7) "Fund" means the Seed Community Development Anchor Institution Fund established under Housing and Community Development Article, §4-509, Annotated Code of Maryland.

(8) "Matching funds" means funds from a private source that are contributed to the project in an amount that equals the amount of financial assistance received from the Fund.

(9) "Program" means the Seed Community Development Anchor Institution Program established under the provisions of the Act.

(10) "Project" means a project submitted by an anchor institution to the Secretary for approval in accordance with the Act and this chapter.

(11) "Recipient of financial assistance" means an anchor institution approved by the Department to receive financial assistance under the Program.

(12) "Secretary" means the Secretary of Housing and Community Development.

.03 Eligible Applicants and Uses.

A. A recipient of financial assistance shall meet the following minimum requirements:

(1) Be an anchor institution;

(2) Not have defaulted on any prior financial assistance from the Department;

(3) Not be currently barred or suspended from any of the Department's programs;

(4) Have the legal capacity and all necessary legal authority to incur the obligations involved in the form of financial assistance provided under the Program; and

(5) Be in good standing and qualified to do business in Maryland.

B. Financial assistance may be used for any costs and expenses related to community development projects in blighted areas of the State.

C. A recipient of financial assistance may grant or lend all or a portion of the financial assistance it receives from the Program to a designated third party to carry out the project in accordance with the terms and conditions of an agreement with the Department.

.04 Application Requirements.

A. Applications for financial assistance shall be accepted in one or more competitive rounds to be announced by the Department annually.

B. An application submitted to the Department shall:

(1) Be on standard forms prescribed by the Department;

(2) Be submitted by an applicant that meets the requirements of Regulation .03A of this chapter;

(3) Be for a project that is located within a blighted area;

(4) State the amount and type of financial assistance requested;

(5) Provide a comprehensive description of the applicant and project including:

(a) The public purpose of the project and the needs of the community that will be served;

(b) A projected timeline for implementation of the project;

(c) The ability of the applicant to carry out the proposed project in accordance with the projected timeline;

(d) Other public and private resources available for implementing the project; and

(e) The social and economic benefits created by the project;

(6) Provide a budget, in a form acceptable to the Department, that at a minimum shows anticipated project costs and expenses, anticipated sources of project revenue, and identification of the

revenues that can be used to repay the financial assistance provided by the program if provided as a loan;

(7) Propose benchmarks for evaluating whether the proposed project results in a desired outcome for the blighted area, such as community stabilization or reversing economic, social, and physical decline of the community in which the project is located;

(8) Describe any public input the applicant has received on the proposed project, including the nature and extent of the public support for or in opposition to the proposed project;

(9) Demonstrate that, upon completion, the project will be in compliance with all applicable zoning requirements and standards as well as the applicable building code of the local jurisdiction in which the project is located;

(10) Demonstrate the ability to gain site control if applicable to the project through ownership, leasehold interest, contract, option or other agreement satisfactory to the Department;

(11) Provide evidence that the applicant has matching funds available for the project in the amounts required by Housing and Community Development Article, §4-509(g)(2), Annotated Code of Maryland, or in the competitive application round announcement;

(12) Describe whether historic properties or districts will be impacted and how the applicant will comply with the requirements of State Finance and Procurement Article, §§5A-325—5A-326, Annotated Code of Maryland, and Financial Institutions Article, §13-1112(b), Annotated Code of Maryland; and

(13) Include other information or documentation the Department may require.

C. An application for financial assistance may be submitted to fund one or more projects.

D. A recipient of financial assistance may file one or more applications in accordance with schedules established by the Department.

.05 Application Processing.

A. The Department shall determine whether information required under Regulation .04 of this chapter is contained in the application.

B. All complete applications will be competitively evaluated by the Department on a point basis, which shall include the following criteria:

(1) Capacity of the applicant to carry out the project;

(2) Community context;

(3) Public purpose;

(4) Leveraging and cost-effectiveness;

(5) Geographic distribution;

(6) Unique or time-sensitive projects;

(7) Revitalization needs of the community;

(8) Economic development and revitalization opportunities created by the project; and

(9) Other factors established by the Department in the competitive round announcement.

C. The Department, in its discretion, may:

(1) Accept public input on an application;

(2) Request from the applicant additional information concerning an application, including oral presentations; and

(3) Refer the application to other State agencies, as the Department considers appropriate, to undertake the analysis of the application.

D. Upon the Department's completion of the review and scoring of the applications, the Department shall make a recommendation to the Secretary on the applications.

E. Upon receipt of the Department's recommendation, the Secretary:

(1) May request additional information from the applicant or Department concerning the application, including oral presentations;

(2) May give priority to applications that provide for the likely repayment of the financial assistance; and

(3) Shall act on the application by approving it, disapproving it, or approving it with modifications.

F. If the Secretary determines not to approve all or part of an application, the Department shall issue a written notice of denial.

G. Reconsideration.

(1) An applicant may request initial reconsideration of a denial by submitting a written request to the Department, which must be received by the Department within 30 days following the date of the denial notice.

(2) The request for reconsideration shall address each reason for the denial and provide documentation supporting reasons for reconsideration of the application.

(3) The Department shall respond in writing to the applicant's request for reconsideration within 90 days of receipt by the Department of the request for reconsideration.

(4) An initial decision or reconsideration of a decision is not a contested case within the meaning of the Administrative Procedure Act or COMAR 05.01.01.02.

.06 Program Administration.

A. The Department may establish from time to time detailed program guidelines containing application schedules, procedures, underwriting standards, processing requirements, and other requirements or matters relating to the program.

B. The Department may establish fees related to the processing of applications, underwriting, and servicing of financial assistance.

C. The Department shall ensure that program guidelines, fee information, and application forms are publicly available on its website and at its offices.

D. After financial assistance has been awarded to a recipient of financial assistance, the Department may:

(1) Determine specific terms and conditions, including length of term and rate of interest, for the financial assistance, which may be awarded as grants, recoverable grants, unsecured loans, or loans secured by a mortgage or other lien or security interest, including a security interest that may be superior or subordinate to other mortgages, liens, or other security interests on the collateral;

(2) Require and obtain appraisals, credit information, and other information related to making loans and enforcing the terms and conditions;

(3) Enforce the terms of grants, loans, or other financial assistance according to their terms and conditions;

(4) Commence and pursue any action to protect or enforce any right conferred by law, contract, or other agreement;

(5) Modify any provision of any grant, loan, or other financial assistance in order to facilitate the successful completion or operation of a project; and

(6) Exercise all powers authorized under the Act that are necessary or desirable for the implementation of the Program.

.07 Books and Accounts.

A. A recipient of financial assistance and the recipient's contractors and subcontractors shall maintain the books, accounts, and records and shall file with the Department the financial and other reports the Department may from time to time require.

B. All of these books, accounts, and records shall be open to the inspection of representatives of the Department or other agencies of the State during reasonable working hours.

C. Books, accounts, and records of designated third parties, contractors, and subcontractors shall be maintained and made available for inspection for 3 years past the date of termination of the contractual relationship between a contractor or subcontractor and a recipient of financial assistance.

D. A recipient of financial assistance shall submit reports to the Department on the progress or implementation of a project in accordance with an agreement with the Department.

.08 Nondiscrimination; Drug and Alcohol Free Workplace.

A. A recipient of financial assistance may not discriminate on the basis of race, color, religion, national origin, sex, marital status, physical or mental disability, sexual orientation, or age, except with regard to age as permitted under the federal Housing for Older Persons Act, as amended from time to time, or other similar federal laws, in any aspect of the Program, or in any aspect of employment by any recipient of financial assistance in connection with any project financed or assisted under the Program.

B. A recipient of financial assistance shall comply with all applicable federal, State, and local laws and Department policies and programs regarding discrimination and equal opportunity in employment, housing, credit practices, and drug and alcohol free workplaces, including:

(1) Titles VI and VII of the Civil Rights Act of 1964, as amended;

(2) Title VIII of the Civil Rights Acts of 1968, as amended;

(3) The Fair Housing Amendments Act of 1988, as amended;

(4) State Government Article, Title 20, Annotated Code of Maryland, as amended;

(5) The Department's Minority Business Enterprise Program, as amended;

(6) The Governor's Executive Order 01.01.1989.18, Drug and Alcohol Free Workplace, and any Department or State regulations adopted or to be adopted to carry out the requirements of that Order; and

(7) The Americans with Disabilities Act of 1990, as amended.

C. Covenants implementing these requirements, including affirmative action measures, shall be included in appropriate agreements between the Department and the recipient of financial assistance.

.09 Waiver.

The Secretary may waive or vary provisions of this chapter to the extent that the waiver or variance is consistent with the Act and if, in the written determination of the Secretary, the application of a regulation in a specific case or in an emergency situation would be inequitable or contrary to the purposes of the Act.

.10 False Statements.

A. An individual may not knowingly make or cause to be made a false statement or report in any document required to be furnished to the Secretary or the Department by an agreement relating to financial assistance.

B. An individual who violates §A of this regulation is subject to immediate cancellation or acceleration of the financial assistance provided by the Program and any other penalties authorized by law.

KENNETH C. HOLT
Secretary of Housing and Community Development